

RESPONSE UNDER 37 C.F.R. § 1.116  
EXPEDITED PROCEDURE  
TC/A.U. 3761**REMARKS/ARGUMENTS**

Amended independent claims 1, 10, 16 and 22, amended dependent claim 2, along with dependent claims 3 - 9, 11 - 15, 17 - 21 and 23 - 28 are presented for Examiner Hill's consideration.

Pursuant to 37 C.F.R. § 1.116, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Applicants have amended independent claims 1, 10 and 16 to recite that the back panel is "separate and distinct" from the front panel. Basis for this language appears in Figures 2 and 3 of the drawings. As clearly shown, the front panel 12 is separate and distinct from the back panel 52. In Applicants' specification at page 12, lines 21 – 22, it is stated that the front and back panels, 12 and 52 respectively, are discontinuous from one another. The Examiner has indicated that the cited prior art references do not teach "separate and distinct" front and back panels but that Applicants' use of the word "discontinuous" does not necessarily mean "separate and distinct." Applicants have made this change to avoid confusion. No new matter has been introduced by way of these amendments and therefore they should be entered at this time.

Applicants have amended independent claim 22 to recite that the absorbent assembly is a "separate" assembly. Basis for this language appears in the specification at page 13, lines 1 -12, and in Figures 2 and 3 of the drawings. As clearly shown, the absorbent assembly is not sandwiched between the inner and outer covers as is taught in EP 1,072,243A2 issued to Kuwasaka. The Examiner has indicated that the cited prior art references do not teach a "separate" absorbent assembly secured to the front and back panels but that Applicants' claim did not recite the word "separate." Applicants have made this change to avoid confusion. No new matter has been introduced by way of this amendment and therefore it should be entered at this time.

By way of the Office Action mailed July 21, 2005, Examiner Hill objected to dependent claim 2 because of the following informalities: the 'waist band is located on the exterior surface' is referred to as the first elastic band 26 secured to outer surface 16' of front panel as per the description on page 7 of the specification. Applicants have amended claim 2 to refer to "an inner surface and an outer surface." Basis for this language appears in the specification at pages 7, 8, 11 and 12. On page 7, lines 16 – 17, Applicants state that: "The first elastic band 26 is secured to the outer surface 16 of the front panel 12 approximate the first end 18." On page 8, Applicants state that: "The second elastic band 28 is secured to the inner surface 14 of the front panel 12 approximate the second end 20." On page 11, lines 16 – 17, Applicants state that: "The third elastic band 66 is secured to the outer surface 56 of the back panel 52 approximate the first end 58." And on page 12, lines 1 – 2, Applicants state that: "The fourth elastic

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band 68 is secured to the inner surface 54 of the back panel 52 approximate the second end 60." In view of the amendment made to claim 2, Applicants believe that the informality objection to claim 2 should be withdrawn.

By way of the Office Action mailed July 21, 2005, Examiner Hill rejected claims 1 – 3, 8, 10 - 11, 16 and 21 - 28 under 35 U.S.C. § 102 as allegedly being anticipated and thus unpatentable over EP 1,072,243A2 to Kuwasaka. This rejection is respectfully traversed in view of the amendment to the independent claims.

The Kuwasaka patent does not teach or disclose "separate and distinct" front and back panels as now claimed by Applicants in claims 1 - 21. The Kuwasaka patent also does not teach or disclose a "separate" absorbent assembly as now claimed by Applicants in claims 22 – 28. Accordingly, Applicants believe that amended claims 1, 2, 10, 16 and 22 along with dependent claims 3, 8, 11, 21 and 23 – 28 are now patentably distinct over the Kuwasaka patent and should be allowed.

By way of the Office Action mailed July 21, 2005, Examiner Hill rejected claims 4 – 7, 9, 12 - 15 and 17 - 20 under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over EP 1,072,243A2 to Kuwasaka. This rejection is respectfully traversed in view of the amendment to the independent claims.

Applicants' independent claims 1, 10 and 16 contain patentable subject matter not taught or disclosed by Kuwasaka for the reasons stated above, namely that Kuwasaka does not teach or disclose "separate and distinct" front and back panels. Therefore, it follows that Applicants' dependent claims 4 – 7, 9, 12 – 15 and 17 – 20 are also patentably distinct over Kuwasaka since they depend from a patentably distinct independent claim. Accordingly, Applicants believe that their dependent claims 4 – 7, 9, 12 – 15 and 17 – 20 should be allowed at this time.

In summary, Applicants believe that amended independent claims 1, 10, 16 and 22, amended dependent claim 2, along with dependent claims 3 - 9, 11 – 15, 17 - 21 and 23 – 28, contain patentable subject matter not taught by Kuwasaka, and are now in condition for allowance.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

If you have any questions, please contact Tom Connelly at: (920) 721-2455.

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Respectfully submitted,  
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CERTIFICATE OF TRANSMISSION

I, Lanette Burton, hereby certify that on October 20, 2005, this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.

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